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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,922	03/19/2004	Raymond R. Neiser	0100352.0517300	8210
26874	7590	08/08/2006	EXAMINER	
FROST BROWN TODD, LLC			BIDWELL, JAMES R	
2200 PNC CENTER			ART UNIT	
201 E. FIFTH STREET			PAPER NUMBER	
CINCINNATI, OH 45202			3651	

DATE MAILED: 08/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/804,922	Applicant(s) NEISER ET AL.	
	Examiner James R. Bidwell	Art Unit 3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/25/2006</u> | 6) <input type="checkbox"/> Other: _____ |

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 8, 9, 11, 12, 14, 15, 17-25, 27, 29, 30, 32, 33 and 35-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over the newly submitted description of a horizontal accumulator in view of Fisher (U.S. Patent 5,490,587).

The horizontal accumulator shows spaced side frames with rollers there between and a zone 2 of powered rollers followed by a gravity section of rollers. The conveyor has a drive member with a drive element connected to the zone of powered rollers but not the section of gravity rollers. Not expressly shown is the accumulator as being inclined. However, shown by Fisher is a similar accumulator conveyor on an incline. To incline the prior art accumulator would have been obvious and well within the skill of the art as the conveyor would still function in its intended manner while the incline might reduce the drive forces needed to move articles.

Re claim 2, the not shown motor has a control run by the shown sensors.

Re claim 3, shown is a sensor PE disposed to sense articles on the conveyor.

Re claim 4, the sensor senses in an area above the conveying surface, at least some of the area is along both a width and length of the conveyor.

Re claim 5. shown is a downstream sensor PE4.

Re claim 6, the sensors are connected to a control.

Re claim 8, the drive axis of rotation for the drive member is shown as extending in a longitudinal direction.

Re claim 9, the frame naturally includes sections secured together.

Re claim 11, the drive member is a tube.

Re claim 12, as admitted by Applicant in the present specification self-driven tubes are well known and thus obvious to include.

Re claim 14, the rollers are spaced apart consecutive rollers and at least one drive member is operatively connected to a motor.

Re claim 15, each of the shown sections has first and second sensors.

Re claims 17 and 18, as per rejections of claims 11 and 12.

Re claim 19, as per rejection of claim 8.

Re claim 20, the drive member is not connected to any rollers not part of the first plurality of rollers.

Re claim 21, as per claim 2 rejection.

Re claim 22, the sensors are disposed to sense presence of articles on the conveyor.

Re claim 23, as per claim 4 rejection.

Re claim 24, as per claim 5 rejection.

Re claim 25, as per claim 6 rejection.

Re claim 27, as per claim 8 rejection.

Re claims 29 and 30, as per rejections of claims 11 and 12.

Re claim 32, shown are two controlled sections and a plurality of gravity sections.

Re claim 33, each section has a plurality of sensors.

Re claims 35 and 36, as per rejections of claims 11 and 12.

Re claim 37, as per claim 8 rejection.

Claims 7, 10, 13, 16, 26, 28, 31 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over the horizontal accumulator in view of Fisher as applied to the claims above, and further in view of Maxted (U.S. Patent 4,039,074).

The horizontal accumulator and Fisher combined do not show skewed rollers. However, shown by Maxted are skewed rollers 12. To skew the rollers on the horizontal accumulators modified apparatus would have been obvious to one of ordinary skill in the art as it would provide a well known additional alignment function.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Bidwell whose telephone number is (571)272-6910.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene O. Crawford, can be reached on 571-272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JRB

08-02-2006

James R. Bidwell
JAMES R. BIDWELL
PRIMARY EXAMINER
GROUP 
3651
8/2/06